



Appeal Decision

Site visit made on 12 December 2023

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2024

Appeal Ref: APP/X4725/W/23/3322014

7 Hall Lane, Chapelthorpe, Wakefield WF4 3JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Dr Capps against the decision of Wakefield Council.
 - The application Ref 22/01577/FUL, dated 20 July 2022, was refused by notice dated 14 November 2022.
 - The development proposed is change of use of land to residential curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to residential curtilage at 7 Hall Lane, Chapelthorpe, Wakefield, WF4 3JE in accordance with the terms of the application, Ref 22/01577/FUL, dated 20 July 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan – 2002.04.22 version 1 revision 4 dated January 8 2024; proposed block plan – 2002.04.22 version 1 revision 4 dated September 29 2022.
 - 3) The land shown green on plan 'proposed block plan – 2002.04.22 version 1 revision 4 dated September 29 2022' shall be used as domestic garden land associated with the dwelling at 7 Hall Lane, and for no other purposes.
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no development as specified in Part 1, Class E of Schedule 2 shall be erected on the land shown green on plan 'proposed block plan – 2002.04.22 version 1 revision 4 dated September 29 2022', except in the event that a planning permission is expressly granted for that development.

Preliminary Matters

2. The description of development on the application form is 'change of use of land to residential and erection of ancillary granny annexe'. The scheme was amended during the Council's consideration of the application. The Council made its decision based on the amended scheme and associated plans. The description of the development proposed in the banner heading is taken from

the Council's decision notice rather than the application form as it more accurately describes the proposal. I have determined the appeal on this basis.

3. There was a disparity between the plans submitted with the application. The appellant submitted a revised location plan as part of the appeal to address this. In my view, it would have been clear from the plans and information submitted with the application as to the location of the proposed development. Accordingly, I am satisfied that in accepting this amended plan it would not cause prejudice or injustice to any interested party.
4. A new National Planning Policy Framework (the Framework) was published in December 2023. I am satisfied that the changes made to the Framework are not relevant to the present appeal. It does not affect the main parties' cases and it has not been necessary to seek further comments. References in the decision are to the December 2023 Framework.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including its effect on the openness of the Green Belt and the purposes of including land within it; and
- whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

6. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. The Framework states that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects.
7. Paragraph 155 of the Framework states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The exception at criterion e) allows for material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). While the change of use to residential garden land is not explicitly mentioned, I am satisfied that it would constitute a form of development which would fall within paragraph 155 e). This is not in dispute between the main parties.
8. Criterion f) of Policy CS1 of the 2009 adopted Wakefield Local Development Framework Core Strategy (the CS) requires proposals to conform to national, regional and LDF policies relating to the Green Belt.
9. An area of land extends out from the rear garden of the host dwelling. This area of land has well established trees and other vegetation and a tall fence along its boundary. The appeal site comprises a small part of this area that lies adjacent to the existing rear garden. It includes an existing pond which is surrounded by a low fence and an area of grass to the west. Although the existing garden of the host dwelling is separated from the site by low fencing, a gate and other paraphernalia such as wooden arches, these are relatively open

in nature. The site has a somewhat domestic character and appearance. This is mainly due to the combination of the limited physical and visual separation from the existing garden, the fenced off pond area within the site, and its position relative to the gardens of neighbouring properties which are clearly discernible when at the site and which extend beyond it.

10. Due to its position in relation to the rear gardens of existing neighbouring dwellings, and the containment provided by the well-established boundary vegetation and fencing, the site benefits from a reasonable degree of containment. Moreover, due to the screening effect of the dwellings along Hall Lane and the boundary features noted above, any views from the lane would be very limited and would be viewed in the context of the surrounding residential development. This would be the case even during winter months when the trees are not in leaf, as I observed during my site visit. Views from the Public Right of Way (PRoW) that runs to the west and south would be screened by the existing tall boundary features. From the very limited vantage points where views of the site may be possible along the PRoW, it would be seen against the backdrop of the existing rear garden and those of the neighbouring dwellings.
11. The proposal would not have a significant impact on views across the site from the lane or from the PRoW or neighbouring properties. As such, it would not harm the openness of the Green Belt having regard to the visual aspect.
12. I note the Council's concern about the siting of domestic paraphernalia and making use of permitted development rights especially for outbuildings that the site would benefit from should the proposal be permitted.
13. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. It states that the scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the GPDO¹, so that it is clear exactly which rights have been limited or withdrawn.
14. The site's location within the Green Belt does not, in itself, represent clear justification to warrant removal of permitted development rights. However, the garden for the host dwelling that would result from the proposal would be generous and could enable a substantial outbuilding to be constructed without the need for planning permission. This would have the potential to significantly increase the spread of development within what would be an extensive rear garden. This would not necessarily harm the openness of the Green Belt in visual terms due to the site's context as described above. Nevertheless, there is the potential for such development to harm the openness of the Green Belt in spatial terms.
15. A condition could precisely define the relevant provisions of the GPDO to make it clear which rights have been withdrawn, by a specific reference to Class E buildings. It would not therefore be an area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission. The removal of permitted development rights for such buildings would also not

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

preclude the appellant from applying for planning permission for them in the future, which the Council would consider on their own merits. Domestic paraphernalia, such as furniture or play equipment in connection with the use of the land as a garden would be more difficult to control. Nonetheless, if this were to occur, any such paraphernalia would likely be small scale and would not be permanent fixtures.

16. Consequently, subject to a suitably worded condition to remove permitted development rights for incidental buildings, the openness of the Green Belt would be preserved.
17. The purposes of the Green Belt are set out at paragraph 143 of the Framework and include safeguarding the countryside from encroachment. The site is largely contained by the existing boundary treatment, the adjacent PRoW which runs along its western boundary, and the rear gardens of neighbouring residential properties, with only the rear boundary being coterminous with the adjoining open land to the rear of the site. However, in views to the rear, the dwellings to the south of the open land are clearly visible, as are those to the west and east in addition to the host dwelling to the north. To the west, the obviously cultivated and domestic hedge of a nearby dwelling extends beyond the site. As such, the proposed change of use of the land would not give rise to any significant degree of infringement into the countryside. In my judgement, the proposal would not result in unacceptable encroachment into the countryside.
18. Given the particular circumstances of this site, I conclude that the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. Consequently, it would constitute a type of development that is not inappropriate in the Green Belt. The proposal would therefore accord with Policy CS1 of the CS and chapter 13 of the Framework as summarised above.

Other Considerations

19. As the proposal would not amount to inappropriate development in the Green Belt, there is no need for me to assess whether any harm by reason of inappropriateness would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Other Matters

20. The site lies within the Chapelthorpe Conservation Area (the CA). The site is well screened from public vantage points within the CA. The proposal would not harm, and would therefore preserve, the character and appearance of the CA. Its significance as a designated heritage asset would not be harmed.

Conditions

21. For certainty, the standard time condition and one to ensure that the development is carried out in accordance with the approved plans are necessary. Conditions are necessary to define the use and to remove permitted development rights to preserve the openness of the Green Belt.

Conclusion

22. The proposal would accord with the development plan as a whole. There are no material considerations of sufficient weight to indicate that permission should be withheld. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR